IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:18-CV-00329-RJC
3:16-CR-278-RJC-DSC-1

DEMARIO BERNARD AUSTIN	)	
	)	
v.	)	ORDER
	)	
USA	)	
	)	

THIS MATTER comes before the Court upon Petitioner's Motion to Vacate, pursuant to 28 U.S.C. § 2255, (Doc. No. 1), and the Government's Responses (Doc. No. 6, 10).

After careful review of the pleadings, the Court has determined that an evidentiary hearing is necessary to resolve Petitioner's claim that his attorney provided ineffective assistance when she failed to file an appeal as directed by Petitioner. (Doc. No. 1: Motion at 4).

Rule 8(c) of the Rules Governing Section 2255 Proceedings requires the appointment of counsel for such a hearing if the petitioner qualifies under 18 U.S.C. § 3006A. Petitioner previously qualified for appointed counsel in the underlying criminal case (Case No. 3:16-cr-329: Oral Order, Oct. 31, 2016), and the Court is not aware of any change in Petitioner's financial status. Accordingly, the Court finds that the defendant qualifies for appointed counsel in this matter.

IT IS, THEREFORE, ORDERED that:

1. an evidentiary hearing regarding Petitioner's claim that his attorney provided ineffective assistance when she failed to file an appeal as directed is scheduled for Monday, November 25, 2019, at 2 p.m. in a courtroom to be designated in the United States Courthouse in Charlotte, North Carolina;

2. the United States Marshal have the defendant Demario Bernard Austin (Reg. No. 33134-058) present in Charlotte, North Carolina forthwith, but not later than November 25, 2019, at 2 p.m. for the hearing; and

3. the Federal Public Defender shall designate counsel promptly to represent Petitioner on the limited issue identified for the evidentiary hearing.

The Clerk is directed to certify copies of this Order to Petitioner, the Federal Public Defender, the United States Attorney, and the United States Marshals Service.

Signed: September 18, 2019

Robert J. Conrad, Jr.
United States District Judge